

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

SOUTHERN DISTRICT OF CALIFORNIA

MICHAEL MONTGOMERY,

Plaintiff

v.

WAL-MART STORES, INC.; KINDERHOOK INDUSTRIES II, L.P.;
KINDERHOOK INDUSTRIES, L.L.C.; KINDERHOOK CAPITAL
FUND II, L.P.; CRESTWOOD HOLDINGS, INC.; BERGAN, L.L.C.;
JOHN ELMBURG; ROBERT ELMBURG; ERIC ELMBURG; ROCKY
FLICK; HOME DEPOT U.S.A., INC. AND DOES 1 THROUGH 20,
INCLUSIVE,

Defendant

Civil Action No. 12CV3057-L-WVG

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Home Depot USA, Inc., c/o CSC Lawyers Incorporating Service, 2710 N. Gateway Oaks Drive, Suite 150,
Sacramento, CA 95833

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

David L. Shain
1050 South Kimball Road
Ventura, CA 93004

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

W. Samuel Hamrick, Jr.

CLERK OF COURT

Date: 12/26/12

S/ C.Lopez

Signature of Clerk or Deputy Clerk



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Hatfield Process Service - AR 1669 Jefferson Attn: Accounts Payable Kansas City, MO 64108 TELEPHONE NO.: 816 842-9800 FAX NO. (Optional): 816 842-9800 EMAIL ADDRESS (Optional): ATTORNEY FOR (Name): MICHAEL MONTGOMERY		FOR COURT USE ONLY
UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF/PETITIONER: MICHAEL MONTGOMERY		CASE NUMBER: 12CV 3057-L-WVG
DEFENDANT/RESPONDENT: WAL-MART STORES, INC. ETAL.		
PROOF OF SERVICE OF SUMMONS		Ref. No. or File No.: montgomery v. wal-mart

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the (specify documents):
Summons; Complaint; notice of Electronic Filing; Civil Case Cover Sheet
3. a. Party served (specify name of party as shown on documents served):
HOME DEPOT U.S.A., INC.
 - b. ☐ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item ☒ 5b whom substituted service was made) (specify name and relationship to the party named in item 3a):
Becky DeGeorge, PERSON AUTHORIZED TO ACCEPT, a blonde-haired white female approx. 45-55 years of age, 5'4"-5'8" tall and weighing 160-180 lbs.
4. Address where the party was served:
C/O CSC LAWYERS INCORPORATING SERVICE, 2710 N GATEWAY OAKS Drive SUITE 150, SACRAMENTO, CA 95833
5. I served the party (check proper box)
 - a. ☒ **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): **2/4/2013** (2) at (time): **2:30 PM**
 - b. ☐ **by substituted service.** On (date): (2) at (time): I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):
 - (1) ☐ **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) ☐ **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) ☐ **(physical address unknown)** a person of at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): from (city): or ☐ a declaration of mailing is attached.
 - (5) ☐ I attach a **declaration of diligence** stating actions taken first to attempt personal service.

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PROOF OF SERVICE OF SUMMONS

Order No. 7614314 SEA



PLAINTIFF/PETITIONER: MICHAEL MONTGOMERY	CASE NUMBER: 12CV 3057-L-WVG
DEFENDANT/RESPONDENT: WAL-MART STORES, INC. ETAL.	

- c. ☐ **by mail and acknowledgment of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
 (1) on (date): (2) from (city):
 (3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (*Attach completed Notice and Acknowledgment of Receipt.*) (Code Civ. Proc., § 415.30)
 (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40)
- d. ☐ **by other means** (specify means of service and authorizing code section):
- ☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☐ as an individual defendant.
 b. ☐ as the person sued under the fictitious name of (specify):
 c. ☐ as occupant
 d. ☒ On behalf of (specify): **HOME DEPOT U.S.A., INC.**
 under the following Code of Civil Procedure section:
- | | |
|---|---|
| <input type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other |

7. **Person who served papers**

- a. Name: **Brian Atoigue**
 b. Address: **501 12th St., Sacramento, CA 95814**
 c. Telephone number: **916-449-8990**
 d. The fee for service was: **\$59.50**
 e. I am:
- (1) ☐ not a registered California process server.
 (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
 (3) ☒ registered California process server:
- | | |
|---|--------------------------------------|
| (i) <input type="checkbox"/> owner <input type="checkbox"/> employee <input checked="" type="checkbox"/> independent contractor | For: ABC Legal Services, Inc. |
| (ii) <input checked="" type="checkbox"/> Registration No.: 2010-38 | Registration #: 6779 |
| (iii) <input checked="" type="checkbox"/> County: Sacramento | County: Los Angeles |

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 2/5/2013

Brian Atoigue

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

(SIGNATURE)



PROOF OF SERVICE OF SUMMONS

Order No. 7614314 SEA

